

Class Action Fairness Act of 2005

S-5

SUMMARY AS OF:

2/10/2005--Passed Senate, without amendment.

(This measure has not been amended since it was introduced. The expanded summary of the Senate reported version is repeated here.)

Class Action Fairness Act of 2005 - (Sec. 3) Amends the Federal judicial code to specify the calculation of contingent and other attorney's fees in proposed class action settlements that provide for the award of coupons to class members.

Prohibits a Federal district court from approving: (1) a proposed coupon settlement absent a finding that the settlement is fair, reasonable, and adequate; (2) a proposed settlement involving payments to class counsel that would result in a net monetary loss to class members, absent a finding that the loss is substantially outweighed by nonmonetary benefits; or (3) a proposed settlement that provides greater sums to some class members solely because they are closer geographically to the court.

Specifies requirements for serving notices of proposed settlements on appropriate State and Federal officials. Prohibits issuance of an order giving final approval to a proposed settlement earlier than 90 days after such service. Allows class members to refuse compliance with settlement agreements or consent decrees absent notice.

(Sec. 4) Grants district courts original jurisdiction of any civil action in which the matter in controversy exceeds \$5 million, exclusive of interest and costs, and that is between citizens of different States, or citizens of a State and a foreign State or its citizens or subjects.

Lists those factors pursuant to which a district court may, in the interests of justice and based on the totality of the circumstances, decline to exercise jurisdiction over a class action in which more than one-third but less than two-thirds of the members of the proposed plaintiff classes in the aggregate and the primary defendants are citizens of the State in which the action was originally filed, based on consideration of whether: (1) the claims involve matters of national or interstate interest; (2) the claims will be governed by laws of the State where the action was originally filed or by the laws of other States; (3) the class action has been pleaded in a manner that seeks to avoid Federal jurisdiction; (4) the action was brought in a forum with a distinct nexus with the class members, the alleged harm, or the defendants; (5) the number of citizens of the State of original filing in all proposed plaintiff classes in the aggregate is substantially larger than the number of citizens from any other State and the citizenship of other proposed class members is dispersed; and (6) during the three-year period preceding filing, one or more other class actions asserting the same or similar claims on behalf of the same persons have been filed.

Specifies those circumstances in which a district court must decline jurisdiction, including those class actions in which: (1) more than two-thirds of the members of the proposed plaintiff classes in the aggregate are citizens of the State where the action was originally filed, at least one defendant is a defendant from whom significant relief is sought, whose alleged conduct forms a significant basis for the claims asserted, and who is a citizen of the State where the action was originally filed, and principal injuries resulting from the alleged or related conduct were incurred in such State; and (2) during the three-year period preceding filing, no other class action has been filed asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons; or (3) two-thirds or more of the members of all proposed plaintiff classes in the aggregate, and the primary defendants, are citizens of the State where the action was originally filed.

Makes provisions of this Act concerning the application of Federal diversity jurisdiction applicable to any class action before or after entry of a class certification order.

(Sec. 5) Sets forth provisions governing the removal of interstate class actions to Federal district court and the review on appeal of remand orders.

(Sec. 6) Directs the Judicial Conference of the United States to report on class action settlements, incorporating recommendations for best court practices to ensure fairness for class members and appropriate fees for counsel.

(Sec. 7) States that amendments to Federal Rule of Civil Procedure 23 (governing class actions) set forth in the Supreme Court order entered on March 27, 2003, shall take effect on the date of enactment of this Act or on December 1, 2003, whichever occurs first.

(Sec. 8) Retains the authority of the Supreme Court and Judicial Conference to propose and prescribe general rules of practice and procedure.